

CHAPTER 35
FORMERLY
SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 5

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE CODIFYING U.S. SUPREME COURT PRECEDENT RELATING TO THE TERMINATION OF PREGNANCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 1702, Title 24 of the Delaware Code as follows:

§ 1702. Definitions.

The following definitions apply to this chapter unless otherwise expressly stated or implied by the context.

(18) “Viability” means the point in a pregnancy when, in a physician’s good faith medical judgment based on the factors of a patient’s case, there is a reasonable likelihood of the fetus’s sustained survival outside the uterus without the application of extraordinary medical measures.

Section 2. Amend § 1790, Title 24 of the Delaware Code as follows:

§ 1790. Termination of pregnancy before viability not prohibited; termination of pregnancy after viability limited.

(a) A physician may terminate, assist in the termination of, or attempt the termination of a human pregnancy before viability.

(b) A physician may not terminate, attempt to terminate, or assist in the termination or attempt at termination of a human pregnancy otherwise than by birth after viability, unless, in the good faith medical judgment of the physician, the termination is necessary for the protection of the woman’s life or health or in the event of a fetal anomaly for which there is not a reasonable likelihood of the fetus’s sustained survival outside the uterus without extraordinary medical measures.

Section 3. Amend § 1793, Title 24 of the Delaware Code as follows:

§ 1793. Residency requirements; exceptions.

[Repealed.]

Section 4. Amend § 1794, Title 24 of the Delaware Code as follows:

§ 1794. Consent prior to termination of human pregnancy.

[Repealed. Informed consent for a procedure under this subchapter is required by § 4408-1.0 through 10.0, Title 16 of the Delaware Administrative Code.]

Section 5. Nothing in this Act may be construed to affect the continued effectiveness of the Parental Notice of Abortion Act, Subchapter VIII of Chapter 17 of Title 24 of the Delaware Code.

Approved June 8, 2017